

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED ECF CASE

DOC #:

DATE FILED: 8/17/04

AMERICAN CIVIL LIBERTIES UNION,
CENTER FOR CONSTITUTIONAL RIGHTS,
PHYSICIANS FOR HUMAN RIGHTS,
VETERANS FOR COMMON SENSE AND
VETERANS FOR PEACE,

Plaintiffs,

v.

DEPARTMENT OF DEFENSE, AND ITS
COMPONENTS DEPARTMENT OF ARMY,
DEPARTMENT OF NAVY, DEPARTMENT
OF AIR FORCE, DEFENSE INTELLIGENCE
AGENCY; DEPARTMENT OF HOMELAND
SECURITY; DEPARTMENT OF JUSTICE,
AND ITS COMPONENTS CIVIL RIGHTS
DIVISION, CRIMINAL DIVISION, OFFICE OF
INFORMATION AND PRIVACY, OFFICE OF
INTELLIGENCE POLICY AND REVIEW,
FEDERAL BUREAU OF INVESTIGATION;
DEPARTMENT OF STATE; AND CENTRAL
INTELLIGENCE AGENCY,

Defendants.

04 Civ. 4151 (AKH)

STIPULATION AND ORDER

WHEREAS, the parties have agreed that plaintiffs will provide a supplemental list to defendants setting forth a subset of the documents sought in their October 2003 and May 2004 Freedom of Information Act ("FOIA") requests; and

WHEREAS, the parties have agreed that defendants will provide a response to plaintiffs' supplemental list; and

WHEREAS, the parties also have agreed to negotiate a process whereby the defendants will process the remainder of the October 2003 and May 2004 FOIA requests on a rolling basis;

NOW, THEREFORE, it is hereby agreed between the parties and ORDERED as follows:


1. By August 16, 2004, plaintiffs will provide defendants with a list of responsive records that they know to exist. Such records may include those specifically identified in plaintiffs' FOIA requests; records otherwise covered by plaintiffs' October 2003 and May 2004 requests that have been provided by defendant agencies to Congress, members of Congress, or congressional committees; and records otherwise covered by plaintiffs' October 2003 and May 2004 requests that have been discussed or identified in the media; and
2. By August 23, 2004, defendants will either release non-exempt records identified in plaintiffs' August 16 list, provide a log claiming specific exemptions responding to the requirements of *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), with regard to all identified documents, or identify a date on which they will offer a statutory basis for withholding a specific record and the reasons for the delay. In said log, defendants will also identify those documents on plaintiffs' August 16 list that they are not able to locate after a reasonable effort to do so and will describe the efforts taken to locate those documents; and
3. After August 23, 2004, defendants will continue to search for records responsive to plaintiffs' October 2003 and May 2004 FOIA requests, including but not limited to records identified in the August 16 list that have not yet been located and processed, and will process those documents in accordance with the joint plan referenced in Paragraph 4; and
4. By August 30, 2004, plaintiffs and defendants will present the Court with a joint plan for the processing of and response to plaintiffs' FOIA requests; and
5. The Court will hold a conference with the parties on September 9, 2004 at 4:00 to resolve any remaining issues.

Dated: New York, New York
August 16, 2004

FOR PLAINTIFFS:

GIBBONS, DEL DEO, DOLAN,
GRIFFINGER & VECCIONE, P.C.

By:



LAWRENCE S. LUSTBERG (LL-1644)
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One Riverfront Plaza
Newark, NJ 07102

Dated: New York, New York
August 16, 2004

FOR DEFENDANTS:

DAVID N. KELLEY
United States Attorney for the
Southern District of New York

By:


SEAN H. LANE (SL-4898)
PETER M. SKINNER (PS-9745)
Assistant United States Attorneys
86 Chambers Street, 5th floor
New York, N.Y. 10007

So ordered this 17 day of
August 2004


HON. ALVIN K. HELLERSTEIN
UNITED STATES DISTRICT JUDGE

GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE

A PROFESSIONAL CORPORATION

GIBBONS FELLOWSHIP IN
PUBLIC INTEREST & CONSTITUTIONAL LAW

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U.S.D.J.

August 16, 2004

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VIA FACSIMILE

Honorable Alvin K. Hellerstein, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: American Civil Liberties Union, et al. v. Department of Defense, et al.
04 CV 4151 (AKH)**

Dear Judge Hellerstein:

Pursuant to the Order of the Court at the August 12, 2004 hearing in the above-captioned matter, attached please find the parties' Proposed Stipulation and Order. The within document was electronically submitted to the Clerk today and has been delivered to counsel for Defendants.

We thank the Court for its kind attention to this matter. Please do not hesitate to call me at (973) 596-4500 if I can provide any further information.

Respectfully submitted,



Jennifer Ching

Encs.

cc: Sean Lane
Assistant United States Attorney
Peter Skinner
Assistant United States Attorney